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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,080	12/29/2000	Robert J. Duncan	061473 0270172	3507
27498	7590	06/10/2004	EXAMINER	
PILLSBURY WINTHROP LLP 2475 HANOVER STREET PALO ALTO, CA 94304-1114			CLARK, ISAAC R	
		ART UNIT		PAPER NUMBER
		2154		5
DATE MAILED: 06/10/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/753,080	DUNCAN ET AL.
Examiner	Art Unit	
Isaac R Clark	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 29 December 2000.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-12 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 29 December 2000 is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## **DETAILED ACTION**

1. Claims 1-12 are presented for examination.

### ***Priority***

2. No claim for priority has been made in this application.
3. The effective filing date for the subject matter in the pending claims in this application is 12/29/2000.

### ***Drawings***

4. The Examiner contends that the drawings submitted on 12/29/2000 are acceptable for examination proceedings.

### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 09/752112. Although the conflicting claims are not identical, they are not patentably distinct from each other because the copending application

claims a method and apparatus for implementing a general remote procedure call while the current application claims a nearly identical method and apparatus for implementing Java remote method invocation, a specific type of remote procedure call.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. The following terms lack antecedent basis:

- i. "the socket number" – claims 1,7.
- ii. "the differentiated classification subsystem" – claims 1,7.
- iii. "the identity" – claims 6, 12
- iv. "the remote procedure call" – claim 6

b. The claim language in the following claims is murky or not clearly understood:

- i. As per claim 3, it is not clear whether "the flow information" in claim 3, line 3 refers to "flow information" introduced in claim 1 or to "flow information" introduced in claim 3.

- ii. As per claim 9, it is not clear whether "the flow information" in claim 9, line 4 refers to "flow information" introduced in claim 1 or to "flow information" introduced in claim 2.
- iii. Regarding claims 4 and 10, the phrase "Java servlet" includes the trademark "Java." The use of a trademark makes the claim scope uncertain because trademark or trade name cannot be used properly to identify any particular material or product. See MPEP § 2173.05(u). The phrase "Java servlet" should be changed to "servlet" in claims 4 and 10.

7. The remaining claims are rejected based on their dependences.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-3, and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al (hereinafter Moore) US 6,282,581 in view of Hedge, US 6,570,875. As per claim 1, Moore teaches a method for classifying a remote method invocation from a client system that initiates connections to a remote server object using a client and underlying remote method invocation transport code, the method comprising:

detecting when a connection carrying high value data for the remote method invocation is created (Col. 5 lines 21-25);

using a custom socket factory to obtain flow information associated with the detected connection, and to generate a socket therefor (Col. 10. lines 48-53);

The limitation 'high value data' is interpreted to mean all RMI connection traffic between the client and server that makes a call to the stub. This is consistent with the applicant's definition.

Moore does not explicitly teach the method of claim 1, wherein the flow information including the socket number is sent to a classifying router using a side channel and incorporated into the router sub system.

10. Hedge teaches the apparatus of claim 1 in which the flow information includes the socket number (Col. 8, lines 65-67; Col. 9 lines 1-4, and 45-49) and is sent to the classifying router subsystem (Col. 9, lines 50-54).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Hedge with Moore because they both teach client server systems using classifying routers to achieve differentiated service routing. Further, Hedge teaches that including the socket number with the flow information allows identifying the application programs when classifying flows (Col. 9, lines 1-4 and 47-53).

11. As per claim 7, Claim 7 is rejected for the same reasons as rejections to claim 1 above.

12. As per claim 2, Moore teaches the method of claim 1, further including that the detection module provides a stub to calling applications that executes an RMI routine when called by an application (Col. 8 lines 54-63; Col. 9 lines 1-4).

13. As per claim 8, Claim 8 is rejected for the same reasons as rejections to claim 2 above.

14. As per claim 3, Moore teaches the method of claim 2, further including obtaining flow information from an application call to the stub (Col. 8 lines 54-59; Col. 9 lines 3-6).

15. As per claim 9, Claim 9 is rejected for the same reasons as rejections to claim 3 above.

16. Claim 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Hedge in further view of 'Official Notice'

17. As per claim 4, Moore in view of Hedge does not teach that a classifying client server system for transmitting remote method invocation traffic wherein the side channel is implemented as a Java servlet. However the Examiner takes official notice that the implementation of network modules using Java as the implementation language is well known. It would have been obvious to implement the side channel as a Java servlet in the current invention because doing so would result in a platform independent module that could be used in a variety of network equipment.

18. As per claim 10, Claim 10 is rejected for the same reasons as rejections to claim 4 above.

19. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Hedge further in view of Galyas, US 6,687,226.

As per claim 5, Moore in view of Hedge does not teach the method of claim 1 further including marking the traffic send by the router based on the differentiated services classification.

Galyas teaches the method of claim 1 further including marking the traffic is marked with the differentiated services classification (Col 5. lines 35-40). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Galyas with the teachings of Moore and Hedge because they each teach client server systems using classifying routers to achieve differentiated service routing. Furthermore, Galyas teaches that marking the traffic with the differentiated services classification would allow setting appropriate drop priorities based on payload type to prevent overflow in network buffers (Col. 5, lines 27-29).

20. As per claim 11, Claim 11 is rejected for the same reasons as rejections to claim 5 above.

21. Claims 6 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Moore in view of Hedge further in view of Jorgenson, US 6,452,915.

As per claim 6, Moore in view of Hedge does not teach the method of claim 1 further including detecting the identity of the client making the remote procedure call and including the identity in the flow information.

Jorgensen teaches the method of claim 1 further including an IP flow classifier providing differentiated services (Col. 16, lines 28-30) in which the flow information includes the identity of the application requesting service (Col. 16, lines 35-38).

22. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Jorgensen with the teachings of Moore and Hedge to because they each teach client server systems using classifying routers to achieve differentiated service routing. Furthermore, Jorgenson teaches that the

including an IP flow classifier providing differentiated services in which the flow information includes the identity of the application requesting service would allow differentiating the traffic packets for a particular application into one or more classes of service (Col. 16 lines 29-31).

23. As per claim 12, Claim 12 is rejected for the same reasons as rejections to claim 6 above.

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure with respect to showing the state of the art with respect to "Method and apparatus for classifying Java remote method invocation transport traffic".

- i. US 6,400,730 Latif et al.
- ii. US 6,452,363 Li et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Isaac R Clark whose telephone number is (703) 305-3900. The examiner can normally be reached on Monday-Friday from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee, can be reached on 703-305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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